

# Khojaly: Massacre or genocide (legal-political analysis)

Zaur Aliyev B.

PhD in political sciences, docent  
Scientific secretary of the Institute of History of ANAS  
zaur.aliyev@gmail.com

---

**DOI:** <http://dx.doi.org/10.5130/jpapyr.776v439>

## Abstract

Khojaly events are massacres or genocide? So far, these two concepts have been widely used in the media, but no mutual comparison has been encountered. However, without being aware of these concepts, some of the media workers are describing the event as a massacre and others as genocide. In fact, these two concepts are different from each other due to their etymology and legal value. The slaughter of all the people of a country captured by the "massacre" in the explanatory dictionary of the Azerbaijani language is considered as mass slaughter. In the international law books, the massacre is often celebrated because of differences in race, religion, or political thought. Sometimes it is possible to find a person who is suffering from mental disability by targeting them and targeting individuals and groups. For example, we can illustrate the case of Anders Breivik, a terrorist and Norwegian murderer, who killed 77 civilian citizens in the Norwegian capital, Oslo.

**Keywords:** *Khojali, massacre, genocide, disability, Azerbaijan*

## Introduction

In the international law, the word "genosid" is derived from the Greek word "genos", which means "genocide", which means "genocide", which means "killing" in Latin, which means "killing" was first used as a term in 1944 by a Polish Jewish lawyer, Rafael Lemkin, who expressed the European policy of mass destruction

of European Jews by the Nazis on the national level. [1]

For the first time in the history of politics, criminal acts aimed at massive destruction of human groups by national, ethnic, racial or religious origin were first called "genocide" in international law. It is written internationally and in the local law: "Genocide is the thoughtful and systematic complete or partial extermination of ethnic,

racial, religious or national groups." This is the second edition of the Convention on the Prevention and Punishment of the Crime of Genocide the following acts committed with the intent to destroy, in whole or in part, the national, ethnic, racial or religious group: - kill members of the group; substantial physical or mental harm to group members, considerably lowering the living conditions of the group for complete or partial physical destruction of the group; take measures to prevent births that will be in the group; (and) transferring children from one group to another by force - one ". On 9 December 1948, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide was adopted. [2]

8 generations have been destroyed in Khojaly. This is the most terrible event in the world so far.

1. Mammadov Vagif Shukur oglu father, 1940
2. Mammadova Afila Ibrahim qizi is born in 1949
3. Mammadov Azer Vagif oglu son of 1972
4. Mammadov Jeyhun Vagif oglu, son, 1975
5. Mammadov Niyamaddin Vagif oglu oghlu 1978
1. Karimov Samran Soltan born in 1924
2. Kerimova Firangiz Mom 1935
3. Kerimov Firuz Samran oglu son of 1960
4. Kerimov Soltan Samran oglu son born in 1969
1. Aliyev Firdovsi Jesus son of father 1956
2. Aliyeva Heyran Murshud gizi is born in 1962
3. Aliyev Elchin Firdovsi oglu oguz 1982
4. Aliyev Elgiz Firdovsi oghlu son 1984

1. Ganbarov Karsalan Garay son father in 1939
2. Ganbarova Valide Boran, born in 1941
3. Ganbarov Nadir Karsalan, son of the son, 1971
1. Ganbarov Safar Garsalan born in 1961
2. Ganbarova Matanat Haji qizi the mother of 1967
3. Ganbarov Emin Safar oghlu oglu was born in 1986
4. Ganbarova Esmira Safar's daughter girl 1985
1. Huseynov Mirsiyab Hadratqulu oglu husband 1922
2. Huseynova Minash Jumshud daughter wife 1934
1. Hasanova Gunash Abdulgizi qizi is born in 1910
2. Hasanova Qatisa Mirtsyab daughter daughter 1951
1. Huseynov Huseyn Ismayil oglu father, 1934
2. Huseynova Aziz Shopping daughter mother 1956
3. Huseynov Husbal Huseyn oglu son 1963
4. Huseynov Tacir Huseyn oglu son 1972
5. Huseynova Nasiba Huseyn gizi girl 1982

According to Article 2 of that convention, the killing of members of a national, ethnic, racial or religious group, severe bodily injuries, intentional creation of a life-threatening condition for the full or partial destruction of any group, taking actions, taking children out of a group of people and giving them to someone else are considered "genocide". According to Article 3 of the Convention, genocide, confidentiality aimed at committing such acts, direct and indirect motive for committing genocides, committed genocide or genocide, are

regarded as committed and punishable by genocide. The Criminal Code also stipulates a special substance (Article 105 of the Criminal Code of the Republic of Azerbaijan) and it is noted that without the genocide, the total and partial demolition of the population is regarded as the crime of the demolition of the population. The genocide is referred to another article in the Criminal Code of the Republic of Azerbaijan (Article 103) and it is indicated that the killing of group members in order to destroy any national, ethnic, racial or religious group as a group, creating serious conditions for the health of members, or serious injury to their mental abilities, creating conditions for the whole or partial physical destruction of the group, undertaking measures aimed at preventing births within the group, and transferring children belonging to one group to another group constitutes a genocide crime. The actions of Armenians who committed the Khojaly tragedy should be cited in this article of the criminal code. [3]

This event is called "Khojaly massacre" and "Khojaly genocide" in Azerbaijan and in Turkey. In Armenia this operation is expressed in terms of "Khojaly war", "Khojaly events". The western and world press prefers to use the term "Khojaly massacre" (eg, "Khojaly Massacre", fr., "Massacre de Khodjaly"). However, article 6 of the UN Convention on the Prevention and Punishment of the Crime of Genocide of 19 December 1948, the Criminal and Criminal Procedure Codes of the Republic of Azerbaijan, in competent courts or in jurisdictions, to examine its jurisdiction at the International Criminal Tribunal and to take all legitimate measures to adequately

punish those guilty. The Criminal Code of the Republic of Azerbaijan contains all the provisions for the prosecution of genocide and other crimes committed in Khojaly.

Facts about Armenia's failure to ignore international legal norms during the war do not end there. Under the requirements of international humanitarian law, war should only be exercised between the armed forces of the armed conflict parties. Civilian population should not be involved in battles and should be treated with respect. Under Article 3 of the Geneva Convention on the Protection of Civilians in the Event of Civil War, the intent of the civilian life and security is to assassinate civilians, including their killing, crippling, cruel treatment, torture and torture, human dignity, insult and humiliation actions are forbidden. Article 33 of the Convention states that no civilian can be punished for any offense he has committed. Collective penalties against civilians, fears of civilians, terrorist acts against them, and exposure to repression are strictly forbidden. According to Article 34 of the Convention, the seizure of the civilian population is also prohibited. However, Armenians, who hosted more than 1,000 people in Khojaly, have also shown disregard for this principle. The Armenian armed forces ignored these norms and resorted to the most brutal methods for peaceful civilians in Khojaly.

As a result of the Khojaly genocide and other tragedies in occupied Armenia, the rights and freedoms as well as the right of people to live in a gross violation of the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and other international instruments have

been grossly violated, people's honor and dignity have been upheld. It should be noted that in the world practice, there were many such cases. For example, after gaining independence in Burundi in 1962 there were two incidents of genocide. In the last report of the International Research Commission for Burundi, which was submitted to the UN Security Council in 2002, the massacre of bullets by the captive army in 1972 and the massacre committed by the Hutu population in 1993 were recognized as genocide. Another example is the Sabra and Shatila massacres committed by the Lebanese Maronite Christians / Falanga military forces in the Palestinian refugee camps in Sabra and Shatila in September 1982-2000, near the start of the Southern Lebanon conflict in 1982-2000. The number of victims of the massacre is estimated at 700-3500. The blame for the massacre belongs to the Pharaohs as the executor and to Israel, who is indirectly the allies of the Pharaohs.

On December 16, 1982, the UN General Assembly recognized the massacre and declared it a genocide act. Section 2, which is considered to be a massacre of a massacre, passed 98 votes against 19 voices and 23 did not take part in the voting. All Western democracies did not participate in the voting, but the term killing was replaced by the term "genocide" in this process. All of this suggests that, Crime in Khojaly was a genocide. Because the goal was to destroy a group of people living in a specific area and belonging to a specific national identity. The developers, the instructors and their executives have reached their goals and have destroyed most of the population without care of age and sex.

What happened in Khojaly was a crime against humanity. Because the party carrying out the operation has given control over the city and has been cruel to the civilian population, killing all the people of the age group, tortured, captured, persecuted long psychological and physical pressure, sexual harassment, forced pregnancy, cruel, and hostile atrocities against civilian and non-military operations.

What happened in Khojaly was a military offense. Because the murders that took place, other violent movements, the destruction of the city completely went far beyond the limits necessary to achieve military objectives. The purpose of the operation was not only the occupation of an administrative territorial unit, but also the destruction of the residents and the city itself.

Crime and aggression crimes against humanity are included in the jurisdiction of the International Criminal Court. It is part of the International Criminal Court's jurisdiction in the international terrorism included in the International Criminal Tribunal. According to the Statute of the International Criminal Court, the application of the principles of universal jurisdiction against international crimes, including international crimes, is envisaged.

The International Criminal Court was established on 17 July 1998 at the United Nations Diplomatic Conference in Rome, Italy. This court has been established as a permanent body authorized to exercise jurisdiction over persons responsible for the most serious crimes of concern to the international community. Under Article 5, 6 of the Rome Statute of the International Criminal Tribunal, this tribunal has the au-

thority to admit and prosecute genocide crimes.

In addition, according to the *Ratione temporis* jurisdiction of Rome (Article 11), the court has jurisdiction only after the date of the entry into force of the status, ie after the crimes committed after June 17, 1998. [4]

Under Article 5 of the Rome Statute of the International Criminal Court, the jurisdiction of this court may be applied only to States party to the Rome Statute. In the Hague tribunal, the issue can then be considered that the offenses were committed by a national of a State which ratified the status of Rome and ratified the status of Rome.

It can also be seen in cases where murders of genocide are committed in an international peace and security situation and apply to the International Criminal Court in accordance with section VII of the UN Security Council Charter. Due to the fact that these legal bases and legal conditions are not present, it is impossible to consider the case of the Khojaly genocide in the Hague tribunal.

The International Criminal Court has the jurisdiction of the following three cases:

1. The alleged criminal offense is committed in the territory of the State of Rome or of a national of that State;
2. States not party to the Rome Statute are entitled at hoc, by recognizing the authority of the International Criminal Tribunal;
3. Requests the International Criminal Tribunal to conduct an investigation into a case where the UN Security Council has one or more offenses. [5]

At the same time, under Article 11 of the Rome Statute, the International Crimi-

nal Court has jurisdiction over the offenses that have emerged. If any State later becomes a member of the International Criminal Court, it may be deemed to have joined the Rome Statute since the date of the International Criminal Court's establishment by a special declaration by that State. Otherwise, the provisions of the Statute shall apply to that State from the date on which the Statute is approved by the State. It can also recognize the authority of the International Criminal Court with a statement of the same offense in connection with the offense of a State not party to the Statute. [6]

The human rights center "Memorial" affirmed that "actions of the Armenian armed forces of Nagorno-Karabakh against the civilian population of Khojaly in the city of Khojaly during the attack were adopted by the Geneva Conventions and the Universal Declaration of Human Rights (adopted by the UN General Assembly on December 10, 1948 ) roughly contradicts:

Article 2 Everyone is free to all the rights and freedoms set forth in this Declaration, without prejudice to any other language, religion, national origin, or other affiliation.

Article 3 Everyone has the right to life, liberty and the right to personal inviolability.

Article 5. It is forbidden for a person to be subjected to cruel, inhuman or degrading treatment.

Article 9. Illegal arrests, detention or exile are forbidden.

Article 17. Everyone has the right to own property and this right can not be restricted by law.

The actions of the armed forces brutally violate the Declaration on the Protection of Women, adopted by the UN General Assembly on December 14, 1972 in the conditions of emergency and armed conflict " [7]

The world experience fully confirms that the murderers of the Khojaly massacre can be considered in the gravest crimes court of Khojaly in Azerbaijan. Because the Khojaly genocide was committed on the territory of Azerbaijan against the Azerbaijanis, who were former citizens of Azerbaijan, and Azerbaijani Turks.

This is entirely in line with the requirements of national and international law. Because of the principle of universal jurisdiction to prosecute genocide and other international offenses is the duty of Azerbaijan, its investigative and judicial authorities. It is also possible to establish the International Criminal Court on the Khojaly genocide or the crimes of peace and humanity committed against the Azerbaijanis by Armenia or its separatist forces and servicemen in general on the basis of the laws of Azerbaijan.

Because the Azerbaijani side can prove that what Armenians committed in the Khojaly genocide violates the Geneva Conventions of the Fourth Geneva Convention and the 77th Anniversary of the International Humanitarian Law. At the same time, the prohibited methods of combatting the International Humanitarian Law (the Hague right) were also grossly violated during the Khojaly incident.

An investigation group established to investigate the bloody events in Khojaly has conducted a forensic medical examination of the corpse of 181 people. It has been known that most of the dead were shot

dead at a distance, mostly shot dead and shot dead by children between the ages of 2 and 15 years. The heads of the corpses, their ears, their eyes removed, the skulls were scattered, the skins were peeled off, the women were harassed, and many bodies were damaged and unrecognizable.

At the same time, the following articles of the Universal Declaration of Human Rights were violated in Khojaly genocide.

Article 2 Everyone shall have all the rights and freedoms set forth in this Declaration without distinction of any kind, such as his tongue, religion, nationality, or any other extermination.

Article 3 Everyone has the right to life, liberty and security of person.

Article 5. Degrading human dignity, inhuman or degrading treatment is prohibited.

Article 9. Arbitrary arrests, detention or expulsion are prohibited.

Article 17. Everyone has the right to own property and is forbidden to arbitrarily deprive a person of his property. [8]

The petition filed by the Republic of Azerbaijan shall be secured by the UN Security Council. In the event that a special criminal court of the Khojaly genocide is established on the basis of existing disputes and procedures and in line with the requirements of international law, it may be ensured that adequate penalties may be imposed on those accused in the same court. [9]

There are also all legal grounds for this, and confirmed by Jean-Paul Murman, the judge of the Belgian Constitutional Court. He noted that the same courts were established in connection with the genocides in Kosovo, Lebanon, Iraq and other



countries. He said international experts should be involved in such trials, investigations should be made, and relevant decisions should be made. Those who commit such crimes against humanity must be found and punished. Jean-Paul Murman said that any state support and protection of persons committing such offenses would result in re-occurring crimes in the future. [10]

At the same time, when we address the UN Security Council at the international conference of UN Secretary-General Kofi Annan in Stockholm on January 24, 2004, we can lay the groundwork for it.

The president of the Khojaly events is the president of Armenia. It happened during the period when Serzh Sargsyan was the head of the "self-defense committee" of the illegal separatist regime, and his memories are one of the most important evidence in this area. Sarkisian's words do not make any doubt about the executors of crimes committed in Khojaly: *Before the Khojaly, the Azerbaijanis thought that they were joking with us, thinking that Armenians could not raise their hands against the civilian population. We could break this [stereotype]. And that's what happened. And we should also take into account that those children were fleeing from Baku and Sumgayit.*

*Serj Sarkisyan*

Asked whether the journalist regretted the deaths of thousands of people, Serj Sarkisyan answered shamelessly:

I do not regret it ... even if thousands of people die, this kind of stride is necessary. [11]

*Serj Sarkisyan*

Human rights defender from minority Armenians who recognize the fact of committing genocide in Armenia in Khojaly Mikael Danielyan and journalist Vahe Avetyancan be mentioned. [12]

Canadian Canadian lawyer Vaskel Sitaryan writes in the March 26, 1992, issue of Spain's Levante: "We Armenians have humiliated ourselves in the world on the events of February 26 in Khojaly. International courts, which are hard for us, will be established. Who dragged the Armenian nation to the court doors? "

One of the representatives of the Helsinki Citizens Assembly for Nagorno-Karabakh, Karen Ohankanyan, said in an interview: "I am the only person in Armenia that I personally apologize to myself for the violence against civilians living in Khojaly."

At present Recognition of the Khojaly genocide As one of the main directions of Azerbaijan's foreign policy. Apart from Azerbaijan, Khojaly as a full-blown massacre Pakistan and Sudan recognizes

The tragedy is like a parliamentary scandal Mexico, Colombia, Czech Republic, Bosnia and Herzegovina, Peru, Honduras, Panama, Jordan and Romania recognizes. [13]

To date 21 US states have adopted a document recognizing Khojaly as a massacre.

November 20, 2012 Posted by Djibouti At the 39th session of the Council of Foreign Ministers of the Organization of Islamic Cooperation (OIC), a resolution was adopted that

recognized Khojaly genocide as genocide. [14]

New York Times, Boston Globe, Wall Street Journal, Sunday Times, Chicago Tribune newspapers, Associated Press, Washington Post, The New York Times, press ", and" Time "have taken an important place [15]

In the UK, Reuters, The Times, Sunday Times, The Guardian, BBC, and other media outlets have reported on the Khojaly genocide. Times journalist Anatol Lieven, who travels to Nagorno Karabakh together with many foreign journalists, writes on his findings after returning to his country:

"When we climbed over the snow-capped hills of Nagorno-Karabakh, we saw the scattered bodies ... It was obvious that the refugees were exposed to fire when they fled to save themselves ... The civilian helicopter took four corpses, and the Azerbaijani cameraman took dozens of corpses in the hills. we looked at the corpses collected by the civilian helicopter. The two-year-old man and a young girl's body were covered with blood, and their lower extremities were wrapped in cold and severe conditions,

On 15 February 2003, the Khojaly refugees applied to the United Nations, the Council of Europe, the Organization for Security and Cooperation in Europe

(OSCE). The main purpose of the appeal was to convey to the world-renowned international organizations - the United Nations, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE) - about the Khojaly genocide committed by Armenians in the Nagorno-Karabakh region of Azerbaijan in February 1992 and to give a legal and political assessment to this bloody crime it was t.

In its judgment of 22 April 2010, the European Court of Human Rights ruled that Khojaly's demilitarization of the civilian population of Azerbaijan was "war crimes or especially serious crimes that could be regarded as crimes against humanity." [16]

In its judgment of 22 April 2010, the European Court of Human Rights states:

"Reports derived from independent sources show that during the Khojaly massacre on February 25-26, 1992, hundreds of Azerbaijani ethnic minorities were killed by Armenian armed men attacking the city when attempting to leave the occupied city, was wounded and taken hostage." [17]

Unfortunately, the Khojaly genocide, which has resulted in massive and gross violations of human rights, has not yet been legally assessed internationally, and no concrete measures have been taken against the terrorist and aggressive actions of Armenians.

## References

- [1] William Schabas. Genocide in international law: the crimes of crimes. - Cambridge University Press, 2000. - p. 25
- [2] United Nations Treaty Collection (As of 9 October 2001): Convention on the Prevention and Punishment of the United Nations High Commissioner for Human Rights



- [3] THE KHOJALY GENERATION IS THE INTERNATIONAL CRIMINAL <http://supremecourt.gov.az/static/view/175>
- [4] Rome statute of the international criminal court. [http://legal.flour.org/icc/statute/99\\_corr/cstatute.htm](http://legal.flour.org/icc/statute/99_corr/cstatute.htm)
- [5] The International Criminal Court, <http://www.mup-info.com/mup/international-court>
- [6] Rafael FIGURE BRAYILOV "The world is beginning to recognize the Khojaly realities" "The Republic." February 25, 2012. - N 45.- S 6.
- [7] The Khojaly tragedy is an integral part of the policy of targeted genocidal policy of the Armenian people against the Azerbaijani people as an international crime "Revivalism", 2004, No. 96-97, p. 49-55.
- [8] The Universal Declaration of Human Rights was adopted and proclaimed by the General Assembly Resolution 217 A (III) of 10 December 1948. <http://www.migration.gov.az/images/pdf/935e2ca153e49bce078042398ff16c2d.pdf>
- [9] Tatyana Goldman "International law unequivocally confirms the genocide of Khojaly massacre" "Azerbaijan" .- 2010.-23 February.-N 42.-S.6.
- [10] Judge of Belgian Constitutional Court: International Criminal Court to be established on Khojaly events <http://az.trend.az/azerbaijan/karabakh/1996133.html>
- [11] Thomas de Vaal, "Black Garden: Armenia and Azerbaijan through Peace and War" (New York and London, 2003), p. 172
- [12] An Armenian who has apologized for the Khojaly genocide has died. "News.milli.a.
- [13] "" International Recognition of The Khojaly Genocide "" . [un.mfa.gov.az](http://un.mfa.gov.az)
- [14] "INTERNATIONAL RECOGNITION" . [www.justiceforkhojaly.org](http://www.justiceforkhojaly.org)
- [15] Bayramqızı, legend. "Khojaly genocide through the eyes of the international press" . [www.xalqqazeti.com](http://www.xalqqazeti.com).
- [16] Today is the 24th anniversary of the Khojaly Genocide . " [Geneva.mfa.gov.az](http://Geneva.mfa.gov.az).
- [17] "Award-winning Xojaly documentary screened in Brussels" . [azertag.az](http://azertag.az).